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Via Overnight Mail

July 18, 2005

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JUL 19 2005

PUBLIC SERVICE
COMMISSION

Beth A. O'Donnell, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: Case No. 2005-00228

Dear Ms. O'Donnell:

Please find enclosed the original and twelve (12) copies of the Petition to Intervene of the Kroger Co. in the above-referenced matter. By copy of this letter, all parties listed on the Certificate of Service have been served.

Please place this document of file.

Very Truly Yours,



Michael L. Kurtz, Esq.
BOEHM, KURTZ & LOWRY

MLKkew
Attachment
cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by mailing a true and correct copy, by first-class postage prepaid mail, unless otherwise noted, to all parties on the 18th day of July, 2005.

Kate E. Moriarty, Esq.
John J. Finnigan, Jr., Esq.
Cinergy Services, Inc.
139 E. Fourth Street, 2500 Atrium II
Cincinnati, Ohio 45201

Elizabeth A. Blackford, Esq.
Assistant Attorney General
1024 Capital Center Drive
Frankfort, KY 40601

A handwritten signature in black ink, appearing to read "m.l. Kurtz". The signature is written in a cursive style with a horizontal line underneath it.

Michael L. Kurtz, Esq.

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE
COMMISSION

In The Matter Of The Merger Between Cinergy Corporation : Case No. 2005-00228
And Duke Energy Corporation :

PETITION TO INTERVENE OF
THE KROGER CO.

Pursuant to K.R.S. §278.310 and 807 KAR 5:001 Section 3(8), The Kroger Co. ("Kroger") requests that it be granted full intervenor status in the above-captioned proceeding and states in support thereof as follows:

1. Kroger is one of the 20 largest electric customers of Union Light Heat & Power Company ("ULH&P"). Kroger operates approximately 10 grocery stores in the service territory of ULH&P, has an aggregate load of approximately 6-7 MW, and operates at a 70-75% load factor.
2. The matters being decided by the Commission in this case may have a significant impact on the rates paid by Kroger for electricity. Electricity represents a significant cost of doing business for Kroger. The attorneys for Kroger authorized to represent them in this proceeding and to take service of all documents are:

Michael L. Kurtz, Esq.
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3. The position of Kroger cannot be adequately represented by any existing party. Kroger intends to play a constructive role in the Commission's decision making process herein and Kroger's participation will not unduly prejudice any party.

WHEREFORE, Kroger requests that it be granted full intervenor status in the above captioned proceeding.

Respectfully submitted,



Michael L. Kurtz, Esq.

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COUNSEL FOR THE KROGER CO.

July 18, 2005